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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

Docket No: Q62631

Vitaly A. VOLODIN

Appln. No.: 09/762,233

Group Art Unit: 2673

Confirmation No.: 1665

Examiner: Leonid SHAPIRO

Filed: February 05, 2001

For: DRIVING METHOD, DRIVING DEVICE FOR DISPLAY, AND DISPLAY
(VARIANTS)

RESPONSE TO ELECTION OF SPECIES

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Election of Species Requirement in the Office Action dated April 19, 2004, Applicant elects Species II, Figures 18 and 19 for examination on which claims 1, 2, 4 and 15 are readable. Applicant reserves the right to file a Divisional Application(s) directed to the non-elected claims.

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This election is made with traverse. Applicant's reasons for the traversal follow.

There are two criteria for a proper restriction/election requirement for between allegedly patentably distinct inventions: (1) the inventions must be independent or distinct; and (2) there must be a serious burden on the examiner if restriction is not required. That is, every requirement has two aspects: (a) the reasons (as distinguished from the mere statement of

RESPONSE TO ELECTION OF SPECIES REQUIREMENT
U.S. Patent Application No. 09/762,233

conclusion) why the inventions are either independent or distinct; and (B) the reasons for insisting upon restriction/election therebetween. See MPEP 803, 808 and 816.

Applicant notes that the Examiner has not provided any reasons for holding that the inventions are either independent or distinct (such as separate classification or status in the art or different field of search). Rather, the Examiner simply states that the “application contains claims directed to the following patentably distinct species of the claimed invention” and provides a listing of Figures 16-22 and 26-29 as allegedly constituting Species 1-6. Therefore, Applicant respectfully submits that Election requirement is improper because the Examiner has not attempted to establish that the inventions as claimed or illustrated in the drawings are patentably distinct or independent. Further, the lack of any reasons in support the requirement make it impossible for Applicant to provide a proper response in rebuttal.

According to MPEP §803, if the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to independent or distinct inventions (a serious burden on the Examiner may be shown by separate classification or status in the art or different field of search). Applicant respectfully asserts that this portion of MPEP §803 should apply to the present situation in order to avoid unnecessary delay and expense to Applicant, and duplicative examination by the Patent Office. Moreover, in the present case, the Examiner has already searched and examined all of the claims on the merits (see August 26, 2003 Office Action). Applicants further submit that Species 1-6 are so inextricably related that no species can be comprehensively examined without also searching those areas related to the other species (see MPEP 808.02). Therefore, it is

RESPONSE TO ELECTION OF SPECIES REQUIREMENT
U.S. Patent Application No. 09/762,233

respectfully submitted that there is no serious burden on the Examiner to examine Applicant's invention as claimed.

In view of the foregoing, Applicant respectfully requests that the requirement be withdrawn upon reconsideration.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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